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ABSTRACT

Implemented in January 1984, the two-part New Jersey local assistance plan calls for state intervention and possible takeover in districts that are unable, after going through the Level I and Level II monitoring and correction processes, to meet state certification standards. The first phase of the intervention plan, a Level III monitoring process, includes a systematic examination procedure during which experts review the district's deficiencies and direct local officials in ways to correct them. The second phase of the plan, reserved for extreme cases in which severe and complex deficiencies still exist, calls for the establishment of a state-operated school district that will do the following: (1) remove from office the local superintendent, board of education, and other key administrators; (2) give a state district superintendent authority over the district for a minimum of five years; (3) establish a local advisory committee; (4) evaluate building principals; and (5) work toward reestablishing local control. This document presents detailed components of and procedural guidelines for both parts of the intervention plan. It also includes definitions of key terms, a glossary, question and answer sections, and proposed legislation for the establishment and governance of state-operated school districts. (IW)

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NEW JERSEY'S PLAN TO INTERVENE IN DEFICIENT SCHOOL DISTRICTS

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June 1986

New Jersey State Department of Education

EA 018 870

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**NEW JERSEY'S PLAN
TO INTERVENE
IN DEFICIENT SCHOOL DISTRICTS**

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NEW JERSEY STATE DEPARTMENT OF EDUCATION

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TABLE OF CONTENTS

	<u>Page</u>
Executive Summary	i
Level III Monitoring Process	1
Establishment of a State-Operated School District	12
Glossary	17
Level III Questions and Answers	19
State-Operated School District Questions and Answers	24
Proposed Legislation for the Establishment and Governance of State-Operated School Districts	30

EXECUTIVE SUMMARY

NEW JERSEY'S PLAN TO INTERVENE IN DEFICIENT SCHOOL DISTRICTS

EXECUTIVE SUMMARY

The New Jersey State Department of Education's comprehensive monitoring process, implemented in January 1984, is designed to ensure that students in all New Jersey school districts receive the educational opportunities guaranteed by law. While most New Jersey public school districts have successfully achieved certification, a handful of districts have so far been unable to meet state standards. New Jersey is committed to assisting local school districts in their own efforts to meet state certification standards. However, the state must also be prepared with a comprehensive and systematic response to those few districts that are unable to achieve certification on their own. Therefore, the State Department of Education devised a strategy for intervention in school districts that repeatedly fail to meet state certification standards.

The following two-part plan calls for state intervention and possible takeover in districts that prove unable to deliver a thorough and efficient system of education:

1. A Level III monitoring process, which includes a systematic examination process during which experts review the district's deficiencies and direct local officials how to correct them. The Level III process is a district's last opportunity to correct local problems at the local level; and
2. The establishment of a state-operated school district, which is a plan for the state takeover of those few districts that repeatedly fail to correct long-standing deficiencies.

The State Department of Education remains committed to allowing local districts to solve their problems themselves. However, in a few extreme cases where severe and complex deficiencies persist, the state must be prepared to declare an "emergency" and assume complete control of the school district. The takeover of a local school district is an extraordinary and unprecedented step. While the state has, in the past, intervened on a limited, case-by-case basis in several school districts with severe fiscal or management irregularities, New Jersey's Plan To Intervene In Deficient School Districts is a consistent and uniform strategy for correcting problems at the local level.

Level III Monitoring

The Level III monitoring process, the first phase of the state's intervention plan, is implemented when a district does not achieve five-year certification during the regular Level I monitoring process and fails to correct deficiencies on its own during the Level II process.

A review team, including qualified staff from outside the district and staff from the State Department of Education's Compliance Unit, will begin the Level III process by examining previous monitoring efforts and a systematic review of the district's educational programs, governance, management and fiscal operations. This Level III Review Team will issue a report to the Assistant Commissioner for County and Regional Services, who will then decide whether the district shall either:

1. Develop a Corrective Action Plan based on the review team's findings; or
2. Undergo a more comprehensive investigation if severe problems exist.

The district's Corrective Action Plan will outline how local officials will implement the review team's findings and directives. The State Department of Education will continue to make available a wide range of state resources, including the publications, workshops and seminars that constitute its comprehensive local assistance plan. In most cases, local officials will be given one year to carry out that plan and achieve certification without further state intervention.

If the district fails to make reasonable progress in correcting its deficiencies, or if the State Department of Education's preliminary review points to conditions that may prevent the district from implementing its correction plan, a comprehensive compliance investigation will be initiated. Following that investigation and a formal hearing, the Commissioner of Education may impose an administrative order giving the district a final opportunity to correct its problems at the local level before the state takes over the district.

State-Operated School Districts

In a handful of cases where certification standards still cannot be met, a district may be said to be "educationally bankrupt" and placed in "receivership" by the State Board of Education. This procedure, to be known as the creation of a state-operated school district, is a last resort. A state-operated school district will be established only when deficiencies are so severe and so complex that a district is unable to provide a thorough and efficient system of education and meet state certification standards during the state's three-part monitoring and comprehensive investigation process.

Since the local board of education in such a case has not met its responsibility for the effective operation of the district, it will relinquish its governing powers immediately upon the State Board of Education's vote to establish a state-operated school district. The positions of the local superintendent and other key central office administrators will be abolished and those employees will be terminated. A state district superintendent will direct operations and govern the district for a minimum of five years. An advisory committee consisting of local residents will be appointed by the Commissioner of Education to advise the state district superintendent and offer the input of various community groups.

Because building principals are essential to the effectiveness of their individual schools, the State Department of Education will conduct a comprehensive performance evaluation of all principals in a state-operated school district. Based upon these evaluations, the state district superintendent will decide within one year whether to retain or replace each principal.

The full cost of the state intervention -- including the salaries of the state district superintendent, support staff and the auditing team assigned by the state -- will be borne by the local district. However, the correction of poor fiscal management practices may ultimately result in long-term savings for the district.

The status of the state-operated district will be reviewed by the Commissioner of Education at the end of the five-year period and each year thereafter. When all of the cited deficiencies have been corrected by the state district superintendent and his/her staff and the district meets all state certification standards, the Commissioner will recommend to the State Board of Education that a local board of education be appointed and local control be re-established.

LEVEL III MONITORING PROCESS

NEW JERSEY STATE DEPARTMENT OF EDUCATION

EVALUATION OF LOCAL SCHOOL DISTRICTS

LEVEL III MONITORING PROCESS

The Level III monitoring process is implemented when a district does not attain certification as a result of its own corrective actions in Level II monitoring. (See Appendix A) The process consists of two major review components:

- An examination of the district's deficiencies identified in the Level I monitoring report that have not been corrected in the Level II monitoring process. This examination is conducted by an external committee of qualified staff members from other school districts who are appointed by the county superintendent; and
- A preliminary compliance review that investigates governance, management, and fiscal aspects of the district operation to identify any factors that may have contributed to the district's inability to resolve its deficiencies in Level I and Level II. This review is conducted by staff from the State Department of Education's Compliance Unit. (See Appendix B)

These two review components, an external committee of program experts and staff from the department's Compliance Unit, form the nucleus of the Level III Review Team. Additional staff from the State Department of Education may supplement the investigatory efforts of the Level III Review Team.

A major facet of the Level III monitoring process is the opportunity provided for the Level III Review Team members to critique the Level II process. In effect, the Level III Review Team initially attempts to determine why the Level II efforts failed to remedy the district's deficiencies. Upon completion of its examination of the district, the Level III Review Team prepares a report detailing its findings and formulating directives designed to provide the basis of the district's Corrective Action Plan.

The Level III monitoring process shall be implemented in accordance with the following guidelines:

I. Selection of the External Committee.

The county superintendent will appoint an external committee consisting of persons with expertise in the district's deficient area(s). The size of the external committee will be determined by the number of deficiencies being reviewed and the size of the school district. The members of the external committee will include program specialists (e.g., basic skills, bilingual, special education) and school administrators.

See Glossary for definition of terms.

The basic criterion used to select external committee members will be their expertise in those deficient areas to be reviewed. Before their appointments are finalized, the county superintendent will review potential external committee members with the coordinating county superintendent and the Assistant Commissioner for County and Regional Services.

- A. External committee members will provide their services on a volunteer basis. It is anticipated that local school districts will donate the time for participation by the external committee members in much the same way that they currently do for the Middle States Evaluations. The costs of housing the external committee shall be borne by the district in which the Level III process is conducted.
- B. Selection of the chairperson for the external committee is an extremely important decision. The chairperson directs the efforts of the external committee and must have expertise in organization and planning, as well as the ability to work with small groups of people. It is essential that the chairperson be familiar with the type of district undergoing the Level III review. For example, the review of a large, complex district dictates that the chairperson must have had first-hand experience in working in and preferably managing a comparable operation. The chairperson will be compensated for his/her efforts by the Department of Education.
- C. The external committee is expected to conduct an intensive review of the deficiencies that have been identified during the Level I monitoring process and have not been corrected during the Level II process. The focus of the external committee's review will be upon the district's Level II plan. It is important to determine why the development and implementation of the Level II plan did not correct the deficiencies.

II. Level III Review Team Procedures.

Preparation and planning at the outset of the Level III activities will determine the success of the Level III process.

- A. The county superintendent, chairperson of the external committee, and the director of compliance will visit the school district, review Level I and Level II monitoring documents, and prepare a detailed action plan which will guide the operations of the Level III Review Team.
- B. The plan will be submitted to the Assistant Commissioner for County and Regional Services and the coordinating county superintendent for their approval and will specify the activities of the individual Level III Review Team members, including whom they will be interviewing, the materials to be reviewed, and the timelines under which they will operate.

- C. To add to the efficiency of the Level III Review Team's operations, interviews and other arrangements should be scheduled ahead of time. The Level III Review Team activities should be well-organized and structured.
- D. In an effort to sharpen the team's focus, specific guidelines should be prepared for the Level III Review Team by the chairperson, the director of compliance, and the county superintendent. If the deficiencies being addressed involve basic skills, for example, the preparatory process should include a listing of names of the people to be interviewed, the location and availability of test scores, and descriptions and results of previous remedial efforts.
- E. To ensure that deficiencies are reviewed thoroughly and consistently in each district that undergoes a Level III review, a listing of specific review criteria and questions will be used.
- F. Level III Review Team members will receive an orientation to their responsibilities before beginning the review process. This orientation session will be conducted by the chairperson and the director of compliance, with the assistance of county staff, and will include the following:
 - 1. A briefing designed to explain the nature, scope, and purpose of the Level III process.
 - 2. A review of the district's Level I and Level II monitoring reports prepared by the county superintendent and local district.
 - 3. An explanation of the deficiencies to be reviewed and any background information that may be helpful to Level III Review Team members.
 - 4. A review of the nature of the report to be issued by the Level III Review Team, including the format and type of findings and directives that are expected.

III. District Reviews.

The Level III Review Team will spend sufficient time in the district to conduct a thorough review of its deficiencies. During that time, the members will gather -- through interviews, reports, observations, etc. -- as much information as is necessary to assess the reasons for the district's inability to meet certification standards in the essential areas. During the actual visits to the district, county staff will help ensure the free flow of communications between the Level III Review Team members and the representatives of the district. Upon completion of the review process, the Level III Review Team will prepare a report that will include two primary components:

1. Specific findings and directives for correcting the program deficiencies prepared by the external committee.
2. A preliminary compliance review report, assessing factors that may contribute to the district's deficiencies, including directives to correct governance, management and fiscal deficiencies.

The report will be submitted to the Assistant Commissioner for County and Regional Services within 15 calendar days after completion of the review of the district. The Assistant Commissioner for County and Regional Services, in consultation with the county superintendent, chairperson of the external committee, coordinating county superintendent and the director of compliance, will determine whether the district shall begin development and implementation of a Corrective Action Plan based upon the Level III Review Team's findings and directives, or whether conditions within the district warrant the initiation of a comprehensive compliance investigation. The Assistant Commissioner for County and Regional Services will make this determination within 15 calendar days after having received the report of the Level III Review Team.

If it is determined that the district can address its deficiencies and achieve certification through the implementation of a Corrective Action Plan, the Level III process described in Sections IV through VII of these guidelines shall be implemented. However, in those instances where the findings of the Level III Review Team indicate conditions within the district that may preclude the successful implementation of the Level III directives, a comprehensive compliance investigation will be initiated in accordance with the procedures described in Section VIII of these guidelines.

IV. Development of the Corrective Action Plan.

Within seven days of a decision by the Assistant Commissioner for County and Regional Services to initiate a Corrective Action Plan in the district, the county superintendent will transmit the findings and directives of the Level III Review Team to the district's chief school administrator. The chief school administrator must establish a Corrective Action Plan, incorporating the directives of the Level III Review Team. This plan must be developed in accordance with the format established by the Department of Education, approved by the local board of education, and then submitted to the county superintendent for approval within 45 days. The county superintendent shall review the Corrective Action Plan with the Assistant Commissioner for County and Regional Services before approving the district's implementation of the plan.

V. Implementation of the Corrective Action Plan.

The district will have one year in which to complete the Corrective Action Plan activities. The county superintendent will

monitor and assess progress monthly by reviewing the chief school administrator's reports to the board and by verifying such reports through on-site visits. The county superintendent will submit quarterly reports to the Assistant Commissioner for County and Regional Services. These reports shall assess the district's progress in meeting each specific directive included in the Corrective Action Plan.

VI. Evaluation of Results.

Upon completion of the Corrective Action Plan activities by the district, the county superintendent will conduct another formal monitoring of the district to determine if certification standards have been achieved. Since the county superintendent's recommendation for certification is an assurance that the district has met all of the mandated requirements, the monitoring process will include a review of the district's current status with regard to all 10 monitoring elements. The extent to which individual elements and those corresponding indicators must be reassessed will be determined by the Assistant Commissioner for County and Regional Services. His/Her judgment will be based upon the nature of the district's deficiencies, the period of time that has elapsed since Level II monitoring was completed, and a review of general conditions within the district.

The county superintendent will submit to the Assistant Commissioner for County and Regional Services a formal monitoring report consisting of:

1. An evaluation of the corrected deficiency(ies), including the amended monitoring worksheets.
2. A recommendation regarding certification of the district.

After consulting with the county superintendent, the Assistant Commissioner for County and Regional Services will make recommendations regarding the district's certification status to the Commissioner of Education.

VII. Further Actions.

If a district fails to achieve certification after completion of a Level III Corrective Action Plan, but does demonstrate reasonable progress in correcting its deficiencies, Corrective Action Plan activities and timelines may be extended by the Assistant Commissioner for County and Regional Services. However, if the district does not demonstrate reasonable progress toward meeting certification standards, a comprehensive compliance investigation will be initiated.

VIII. Comprehensive Compliance Investigation.

A comprehensive compliance investigation will be initiated in a school district under one of the following circumstances:

1. When the findings of the Level III Review Team indicate that the district has failed to correct longstanding deficiencies, and that conditions exist within the district that may preclude the successful implementation of a Corrective Action Plan; or
2. When a district, upon completion of the Corrective Action Plan activities developed and implemented as a result of findings and directives of the Level III Review Team, fails to achieve certification standards and does not demonstrate reasonable progress toward meeting certification standards.

The compliance investigation will not be limited to the deficiencies identified during the monitoring process, but will include an investigation of those elements of the district's operations that may contribute to the district's failure to achieve certification. This investigation will focus upon the district's educational program deficiencies, fiscal practices, governance and management operations.

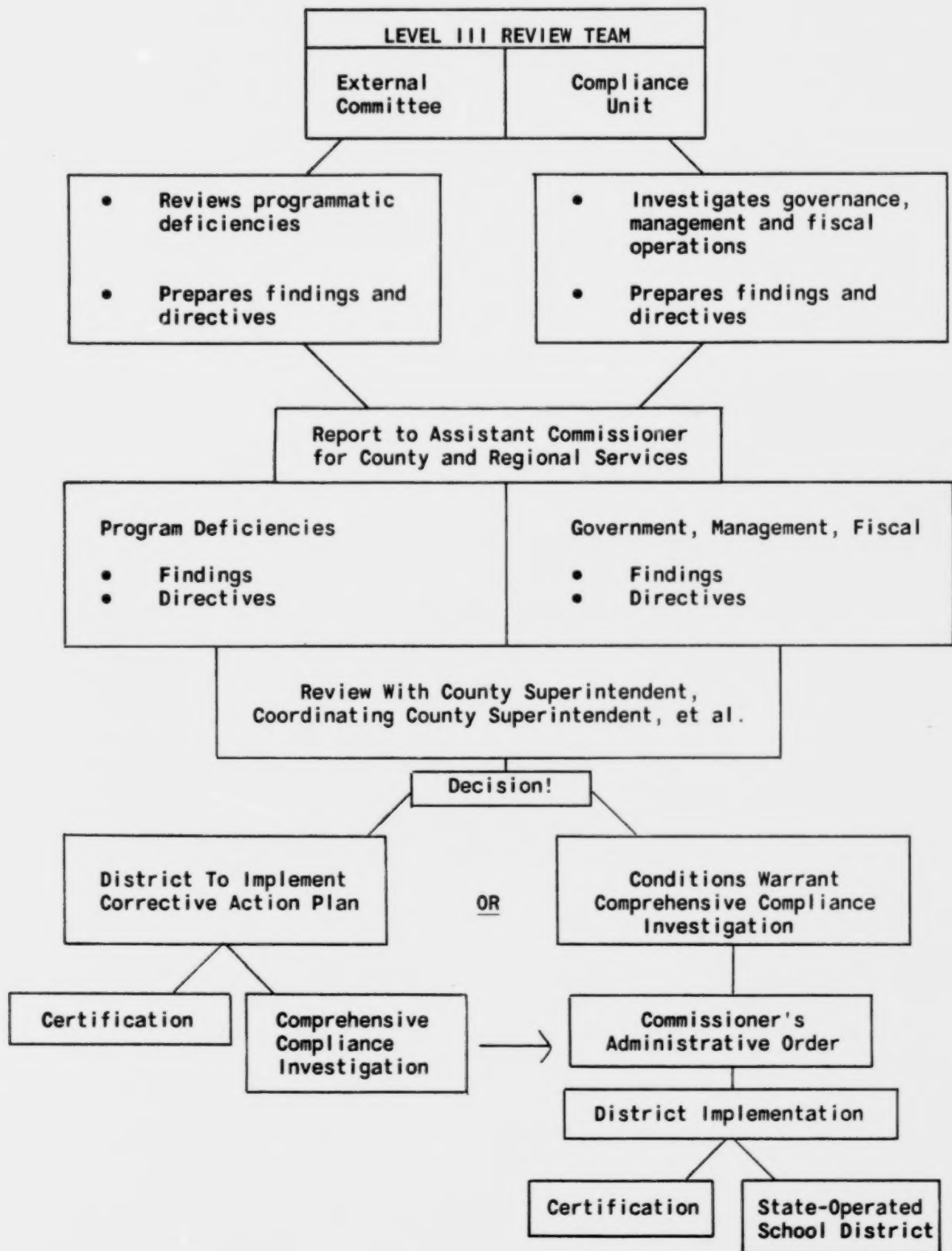
The investigation will be managed by the director of compliance and will be conducted in accordance with the procedures established for a comprehensive compliance investigation. (See Appendix C) The cost of the compliance investigation shall be borne by the school district in which the investigation is conducted.

The director of compliance will prepare a full report comprised of both findings and directives, which will be submitted to the Assistant Commissioner for County and Regional Services. The Assistant Commissioner shall submit to the Commissioner a recommended administrative order outlining such corrective actions as are deemed appropriate. After a plenary hearing the Commissioner may order the implementation of the administrative order and such other relief deemed appropriate, with the exception of the establishment of a state-operated school district.

On recommendation of the Commissioner, the State Board of Education may establish a state-operated school district after finding on the record before the Commissioner that the school district has failed to provide a thorough and efficient system of education.

APPENDIX A

LEVEL III MONITORING PROCESS



APPENDIX B

PRELIMINARY COMPLIANCE REVIEW

I. Definition

The preliminary compliance review is an examination of a district's governance, management, and fiscal operations to identify factors that may contribute to the district's inability to effectively address its deficiencies. The review is conducted by the Department of Education's Compliance Unit as a regular component of a Level III monitoring process.

II. Objectives

The preliminary compliance review will result in a report which includes:

- an examination of the roles and relationships among the board of education, district administrators, and municipal officials; and the performance of responsibilities;
- a review of the management structure of the district;
- an assessment of the performance of administrators in managing buildings and programs, the decision-making process in the district and the impact of that process on the educational program;
- an audit of the district's fiscal operations to determine compliance with established financial practices.

III. Procedures

The Compliance Unit will review the governance functions of the district through analysis of documents and direct interviews with school and municipal authorities who influence decisions regarding program and service delivery. Depending upon local circumstances, the Compliance Unit may interview board members, superintendent, board attorney, mayor, city council members, selected administrators and others. The possible linkages between failed improvement efforts and key decision-makers will be studied.

The review of the district's management structure will involve a survey of those documents which establish policies and procedures for patterns of authority and lines of communication. Further, the Compliance Unit will interview staff responsible for the implementation of programs and services.

The preliminary compliance review of the district's fiscal operations will be based upon data gathered through analysis of documents and interviews conducted with district staff members involved in the process of budget development, distribution of funds, and the allocation of resources. The compliance staff will utilize an auditing and procedural checklist developed by the Division of Finance to gather information for the findings of the preliminary compliance review.

The preliminary compliance review has a limited scope in contrast with the in-depth nature of the comprehensive compliance investigation. It is the specific function of this first stage of compliance review to disclose evidence of relationships between governance, management and fiscal operations to deficiencies in district performance.

APPENDIX C

COMPREHENSIVE COMPLIANCE INVESTIGATION

I. Definition

The comprehensive compliance investigation, conducted under the direction of the director of compliance, is a thorough examination of the district's educational program deficiencies, fiscal practices, governance and management operations. The compliance staff, in conjunction with an outside auditing firm will conduct the investigation. Their activities will include but will not be limited to the following:

- An analysis and review of documents and data to determine conformance with federal, state and district regulations regarding:
 - collective bargaining contracts;
 - bid specifications and awards;
 - budget status and expenditure reports;
 - policy manual and standard operating procedures;
 - board minutes and personnel appointments.
- Interviews with specific staff members concerning:
 - state and federal program applications;
 - administrative structure, job descriptions and work flow;
 - third party contracts;
 - Level III report.

The comprehensive compliance investigation will be conducted in a district in either of two circumstances:

1. The Level III Review Team report indicates that the district has failed to correct longstanding deficiencies and that conditions exist within the district that may preclude the successful implementation of the Corrective Action Plan, or
2. After completion of Corrective Action Plan activities, a district fails to achieve certification standards and does not demonstrate reasonable progress toward correcting its deficiencies.

II. Objectives

The major objective of the comprehensive compliance investigation is to identify and document irregularities in the educational programs, fiscal practices, governance and management operations that impede the district's efforts toward achieving certification.

III. Procedures

The comprehensive compliance investigation will entail an intensive review of the governance practices and procedures of the local board of education. Particular emphasis will be placed on reviewing both the role and performance of the board in: policy setting, personnel practices, decision-making procedures, day-to-day management of the schools, and fiscal operations.

District procedures will be reviewed with respect to sound management practices. Observations and analyses will be made on: personnel evaluations, staffing patterns, job descriptions, work function and flow, and clarity of line-staff relationships.

Department of Education staff will focus their investigation on the governance, management and fiscal practices, and will also direct their attention to the educational program directives contained in the Level III report.

The exact scope of the comprehensive compliance investigation will be determined by the Assistant Commissioner for County and Regional Services, after consultation with the compliance director.

A report comprised of both findings and directives will be prepared by the compliance director. Within 30 days of the completion of the investigation, the director will submit the report to the Assistant Commissioner for County and Regional Services. Within 15 days, the Assistant Commissioner for County and Regional Services will submit to the Commissioner a recommended administrative order outlining such corrective actions as are deemed appropriate.

ESTABLISHMENT OF A STATE-OPERATED SCHOOL DISTRICT

ESTABLISHMENT OF A STATE-OPERATED SCHOOL DISTRICT

Public education in New Jersey is a state responsibility as expressed by the provisions of the State Constitution. The function of providing programs of public education is delegated to local school districts under prescribed conditions expressed in Title 18A and the N.J.A.C. In effect, the state and local school districts enter into a contract that determines the manner in which public educational services will be delivered to pupils.

The monitoring of local school districts is the primary manner through which the Department of Education determines that local school districts are meeting their obligations to provide a thorough and efficient system of education to their students. A few school districts have a history of programmatic deficiencies and irregular management and governance operations. Consequently, the state has established a series of systematic procedures which require those districts to address their deficiencies. Level II and Level III monitoring require the development of plans through which districts must correct problems. On occasion, the Commissioner of Education has taken legal actions against districts where deficiencies were so serious they required the intervention of the state.

The initiation of Level III monitoring activities by the New Jersey Department of Education provides deficient school districts with an opportunity to correct their problems under the supervision of the state, while maintaining local responsibility for the overall operation of the district. The implementation of a comprehensive compliance investigation and the issuance of a formal Commissioner's administrative order are extraordinary measures enacted by the Department of Education as a means of last resort to correct serious educational problems, while allowing a district to function under local control. In effect, the Commissioner's order is a directive to correct deficiencies under prescribed timelines.

Should a district fail to correct deficient instructional and/or management areas, so that a thorough and efficient system of education is not being provided, the district shall forfeit continued local control of the school district's operations, and the district's operations shall be assumed by the Department of Education. In effect, an educational "state of emergency" will exist in the school district necessitating the complete takeover of control of the district by the state. This process is designated as the establishment of a state-operated school district. Clearly, such action by the state is extraordinary. However, in meeting its constitutional responsibilities, the State of New Jersey must ultimately ensure that all students in the state are provided with a thorough and efficient system of education.

Procedures To Establish a State-Operated School District:

The following process will be adhered to in the establishment of a state-operated school district.

1. At the direction of the Assistant Commissioner for County and Regional Services, a comprehensive compliance investigation will be initiated in a school district under one of the following circumstances:

- a. When the findings of the Level III Review Team indicate that the district has failed to correct longstanding deficiencies, and that conditions exist within the district that may preclude the successful implementation of a Corrective Action Plan; or
 - b. When a district, upon completion of the Corrective Action Plan activities developed and implemented as a result of the findings and directives of the Level III Review Team, fails to achieve certification standards and does not demonstrate reasonable progress toward meeting certification standards.
2. Upon completion of the comprehensive compliance investigation, the Assistant Commissioner for County and Regional Services will submit to the Commissioner a recommended administrative order for correction of the school district's deficiencies.
3. After a plenary hearing, the Commissioner may order the implementation of the administrative order and such other relief as he may deem appropriate, with the exception of the establishment of a state-operated school district.
4. On recommendation of the Commissioner, where the State Board of Education finds on the record of the plenary hearing before the Commissioner, that a thorough and efficient system of education is not being provided in the district, it may issue an administrative order establishing a state-operated school district.

When a district is designated as a state-operated school district by the State Board of Education, the following actions will be initiated:

1. School board members shall be removed and the local board of education will cease to function as the governance unit of the district.
2. The chief school administrator and other central office administrative staff positions shall be abolished and personnel will be given a 60-day notice of termination.
3. A transition period of 60 days will be established during which time the following actions will take place:
 - a. If necessary, an interim state district superintendent will be assigned to the district with full authority over the total operations of the district. The interim state district superintendent shall have full authority to operate the district until the formal appointment of a state district superintendent is made by the State Board of Education. The appointment of a state district superintendent will be made within 60 days of the formal takeover of the district by the Department of Education.

- b. A local advisory committee, consisting of no more than 15 residents of the district, will be appointed by the Commissioner of Education to be available to provide advice to the state district superintendent. The advisory committee shall meet on a regular monthly basis.
 - c. An auditing firm, selected by the Commissioner of Education, will perform an audit of the district's fiscal operations.
 - d. The appointment(s) of the local district's auditors and school board attorneys will automatically terminate, although such auditors and attorneys shall be required to furnish such reports and records and other materials on matters related to their business with the local district as the Commissioner may deem necessary. The Commissioner will appoint auditors, attorneys, and consultants as appropriate.
 - e. An internal auditing unit will be established whose primary function shall be to monitor the business functions of the school district and to provide reports on these functions to the state district superintendent and the Commissioner.
 - f. A community information program shall be established that will inform the community about the nature and purpose of the state's action to take over the operation of the district.
4. A state district superintendent, who shall function as the chief executive officer and administrator of the school district, shall be appointed by the State Board of Education upon the recommendation of the Commissioner. The state district superintendent shall direct all of the operations of the district and will make the governance decisions of a local board of education. He/she will ensure implementation of the provisions of the Commissioner's administrative order and take appropriate actions as necessary to achieve the objectives in the administrative order.
5. The state district superintendent shall plan and implement a process to assess the performance of building principals. Since the unique role of the principal as the instructional leader of the school building will have a major impact upon the district's ability to provide quality programs of education for its students, the building principals will be assessed over a 12-month period in the following manner:
- a. An assessment unit formulated by the state district superintendent will conduct an on-site evaluation of each building principal during the first 30 days after the establishment of the district as a state-operated school district.

- b. Building principals will be evaluated a minimum of once per month by the assessment unit. The assessment unit will provide quarterly reports to the state district superintendent regarding the performance of the individual building principals. The building principals will receive copies of all of their assessments from the state district superintendent.
- c. Within a 12-month period the state district superintendent shall decide, on the basis of the assessment process, whether to retain or dismiss each building principal.

Duration of State-Operated School District Status:

The duration of the district's state-operated school district status shall be for a minimum period of five years. Annually, the Commissioner of Education will issue a public report to the community reviewing the current status of the district. The report will include:

1. a progress report regarding the district's compliance with the Commissioner's administrative order.
2. a fiscal audit.

At the conclusion of five years, and annually thereafter, the Commissioner of Education shall review the status of the school district and determine if the district shall continue as a state-operated school district or be reinstated as a Type I or Type II district. In making his determination, the Commissioner shall:

1. review the operations of the district in accordance with the provisions of the Commissioner's administrative order to determine if state certification standards have been met.
2. conduct public hearings.

Should the Commissioner determine that conditions within the district warrant a reinstatement of the Type I or Type II status, he shall recommend to the State Board of Education that local control of the school district be reestablished. Should the State Board of Education accept the Commissioner's recommendation, the following process shall be implemented.

- A transition plan will be developed by the state district superintendent that will be designed to ensure a gradual and orderly return of the operation of the school district to local control. The transition plan will include the following components:
 1. The State Board of Education, upon the recommendation of the Commissioner, shall appoint a board of education which will assume the governance of the school district.

2. The advisory committee originally appointed by the Commissioner shall be terminated.
3. The state district superintendent and other administrative staff as determined by the Commissioner shall remain in their positions for a period of one year after the return of the school district's operation to local control.
4. A referendum shall be conducted within the district to determine whether the district shall be a Type I or Type II district.
5. As the terms of the members of the board of education appointed by the state board expire, successor board members shall be selected in accordance with the provisions of a Type I or Type II school district.

GLOSSARY

Commissioner's Administrative Order - The order of the Commissioner of Education issued after a plenary hearing pursuant to N.J.S.A. 18A:7A-15 directing the district to take specified corrective action, make necessary budgetary changes within the school district or other measures deemed appropriate with the exception of the creation of a state-operated school district.

Compliance Unit - The New Jersey Department of Education's investigatory unit designed to conduct examinations of local school districts to ensure compliance with state statutes, and rules and regulations of the State Board of Education.

Comprehensive Compliance Investigation - A thorough investigation conducted by the Compliance Unit to identify and to document irregularities in the educational programs, fiscal practices, governance and management operations that may impede the district's efforts toward achieving state certification standards.

Corrective Action Plan - A detailed action plan developed by a school district to correct its deficiencies based upon the findings and directives of the Level III Review Team. The Corrective Action Plan is designed by the district in accordance with the format established by the State Department of Education, approved by the local board of education and submitted to the county superintendent for his/her approval.

External Committee - A component of the Level III Review Team, the external committee of qualified staff members from other districts is appointed by the county superintendent to conduct an intensive review of a district's programmatic deficiencies.

Level I Monitoring - Standard monitoring process conducted by the county superintendent for purposes of determining five-year certification status.

Level II Monitoring - Process implemented by local districts that fail to achieve certification. Districts appoint internal review committees and conduct self-studies.

Level III Review Team - An investigatory team comprised of two components:

- a) An external committee of qualified staff members from other school districts who review programmatic deficiencies.
- b) Staff of the State Department of Education Compliance Unit who investigate governance, management and fiscal aspects of the district's operation.

Local Improvement Plan - A plan developed by a local district and approved by the county superintendent as a part of the Level II monitoring process. It is designed to correct deficiencies identified by the local district's internal review committee.

Plenary Hearing - A trial-type, adversial hearing conducted to determine whether an administrative order should be issued.

Preliminary Compliance Review - An examination conducted by the Compliance Unit of the governance, management and fiscal operations of a district to identify factors contributing to the district's inability to address its deficiencies during the Level III review.

State Board Administrative Order - Order of the State Board of Education issued pursuant to the recommendation of the Commissioner of Education for the creation of a state-operated school district.

State District Superintendent - The chief executive officer and administrator of a state-operated school district. He/she directs all district operations and makes the governance decisions normally delegated to a local board of education.

Type I School District - A local school district governed by an appointed school board.

Type II School District - A local school district governed by an elected school board.

LEVEL III

QUESTIONS AND ANSWERS

1. WHAT IS THE LEVEL III MONITORING PROCESS?

The Level III monitoring process is implemented only when a district does not attain certification as a result of its own corrective actions in Level II monitoring. The process consists of two major review components:

- An examination of the district's deficiencies identified in the Level I monitoring report that have not been corrected in the Level II monitoring process. This examination is conducted by an external committee of qualified staff members from other school districts who are appointed by the county superintendent; and
- A preliminary compliance review that investigates governance, management, and fiscal aspects of the district operation to identify any factors that may have contributed to the district's inability to resolve its deficiencies in Level I and Level II. This review is conducted by staff from the State Department of Education's Compliance Unit.

Upon completion of its examination of the district, the Level III review team prepares a report detailing its findings and directives designed to provide the basis of the district's Corrective Action Plan. The report will be submitted to the Assistant Commissioner for County and Regional Services within 15 calendar days after completion of the review of the district. He/she, in consultation with the county superintendent, coordinating county superintendent, chairperson of the external committee, and the director of compliance, will determine if the district shall begin development and implementation of a Corrective Action Plan, or if conditions within the district warrant the initiation of a comprehensive compliance investigation.

2. HOW WILL THE LEVEL III PROCESS BE IMPLEMENTED CONSISTENTLY AND UNIFORMLY FROM DISTRICT TO DISTRICT?

There will be specific review criteria for the external teams to use for each of the element(s) that the district has failed. Specific questions will be utilized by all of the team members investigating deficiency(ies) within the district and in all Level III districts. The use of these standardized questions will ensure the consistency of the data gathered and will assist in sharpening the Level III review team's focus.

In addition, guidelines for the team's visit will be developed. For example, the types of data to be reviewed and personnel to be interviewed will be outlined for each deficient indicator. Operating manuals detailing the Level III process will be developed for the county office, chairperson and team members. Roles, responsibilities and operating procedures will be detailed in the manual.

3. WHAT IS A PRELIMINARY COMPLIANCE REVIEW?

A preliminary compliance review is conducted by the State Department of Education's Compliance Unit as a regular component of a Level III monitoring process. It provides an examination of the governance, management, and fiscal operations of a district to identify any factors contributing to the district's inability to address its deficiencies in an effective manner. A detailed description of the preliminary compliance review procedure is provided in Appendix B of the Level III process.

4. WHAT IS A COMPREHENSIVE COMPLIANCE INVESTIGATION?

The comprehensive compliance investigation, managed by the director of compliance, is a thorough examination of the district's educational program deficiencies, fiscal practices, governance and management operations. The compliance staff, in conjunction with an outside auditing firm, will conduct the investigation.

The purpose of the comprehensive compliance investigation is to identify and to document irregularities in the educational program, fiscal practices, governance and management operations that impede the district's efforts toward achieving certification.

A detailed description of the comprehensive compliance investigation is included in Appendix C of the Level III process.

5. HOW DOES THE LEVEL III PROCESS DIFFER FROM PREVIOUS ATTEMPTS BY THE STATE DEPARTMENT OF EDUCATION TO RESOLVE DEFICIENCIES IN LOCAL DISTRICTS IN PAST YEARS?

Aside from limited interventions in the Trenton and East Orange school districts, previous State Department of Education efforts to resolve deficiencies in local school districts focused primarily upon reviewing district deficiencies in specific program areas and issuing recommendations.

The Level III monitoring process is distinguished from those previous efforts by two features: a preliminary compliance review and the imposition of directives by the state. First, the preliminary compliance review examines the governance, management and fiscal operations of the district to identify conditions that may be contributing to the district's deficiencies. Secondly, the Level III report contains directives, not recommendations, which the district must implement.

6. CAN THE LOCAL SCHOOL BOARD APPEAL THE DIRECTIVES CONTAINED IN THE COUNTY SUPERINTENDENT'S LEVEL III REPORT?

Yes. A district can appeal the directives of the Level III report to the Assistant Commissioner for County and Regional Services. The district must submit its appeal in writing and include justification for disagreement with the directives contained in the Level III report. The Assistant Commissioner for County and Regional Services shall review the Level III report and the district's appeal and make a determination within 15 days. Any further appeal may be made to the Commissioner.

7. WHAT ARE THE CONDITIONS REFERRED TO IN A DISTRICT THAT WOULD PRECLUDE THE SUCCESSFUL IMPLEMENTATION OF THE LEVEL III DIRECTIVES AND RESULT IN A COMPREHENSIVE COMPLIANCE INVESTIGATION BEING INITIATED?

Conditions in these districts could be characterized by:

- Demonstrated inability of district to resolve longstanding problems;
- Ineffective management and governance of the district's operations;
- Mismanagement of fiscal resources; and
- Politicized decision-making process.

8. IF THE LEVEL III REVIEW TEAM REPORT INCLUDES DIRECTIVES REQUIRING THE EXPENDITURE OF FUNDS OR MAJOR BUDGETARY REVISIONS, MUST THE DISTRICT COMPLY WITH THE DIRECTIVES AND DEVELOP A CORRECTIVE ACTION PLAN?

Yes. The district must develop a Corrective Action Plan which implements directives from the Level III report, even if it requires the expenditure of additional funds or major budgetary revisions. It is anticipated that the funds necessary to implement the Corrective Action Plan can be obtained through budget transfers or through the use of the district's free balances. The district will be required to budget for any necessary additional funds in subsequent school years.

9. WHAT ASSISTANCE DOES THE STATE DEPARTMENT OF EDUCATION PROVIDE IF THE DISTRICT'S LEVEL II LOCAL IMPROVEMENT PLAN OR THE LEVEL III CORRECTIVE ACTION PLAN REQUIRES ADDITIONAL MONEY?

The financing of activities designed to implement the district's improvement plans is the responsibility of the local school district. However, the county superintendent, as a part of his/her review of the district's Level II improvement plan, will ensure that the district is providing sufficient monies in its budget to finance the implementation of improvement plan activities. In the Level III monitoring process, before approving the district's Corrective Action Plan, the county superintendent will ensure that sufficient funds are provided to finance the Corrective Action Plan activities.

10. IS CRIMINAL ACTION A POSSIBLE OUTCOME OF A PRELIMINARY COMPLIANCE REVIEW?

Criminal action is not a likely outcome of the preliminary compliance review. It is possible, however, that the comprehensive compliance investigation could uncover activities that should be referred to appropriate law enforcement agencies for further investigation.

11. IS THE LEVEL III EXTERNAL TEAM MAKING QUALITATIVE JUDGMENTS ABOUT THE INSTRUCTIONAL MATERIALS, THE INSTRUCTIONAL LEARNING PROCESS AND THE ADMINISTRATION OF PROGRAMS IN ITS EFFORT TO DETERMINE THE DISTRICT'S FAILURE TO REMEDIATE DEFICIENCIES?

Yes. The Level III review team will be looking at the quality of the programs and examining the effectiveness of the management of the instructional program. The team will gather, through interviews, reports, observations, etc., as much information as is necessary to assess the reasons for the district's failure to receive certification. The Level III review team will objectively analyze the deficient programs and prepare a report based on what they observe.

12. HOW DOES THE DEPARTMENT DEFINE "REASONABLE PROGRESS" TOWARDS CERTIFICATION?

The district's Corrective Action Plan must include an evaluative component for each directive, establishing target dates and measurable objectives. The district's progress on the implementation of the Corrective Action Plan will be monitored monthly by the county superintendent. He/she will submit quarterly reports to the Assistant Commissioner for County and Regional Services. Over the course of the year, the district's progress or lack of progress on its implementation of the plan will be tracked. The Assistant Commissioner for County and Regional Services will determine, on an individual, district-by-district basis, if the progress made is reasonable and if the district should be granted additional time to implement the remaining plans.

13. WILL THE COUNTY SUPERINTENDENT'S MONITORING REPORTS ON THE CORRECTIVE ACTION PLAN BE MADE PUBLIC?

The county superintendent will monitor and assess the progress of the district's Corrective Action Plan monthly by reviewing the chief school administrator's reports to the board and by verifying such reports through on-site visits. The county superintendent will submit quarterly reports to the Assistant Commissioner for County and Regional Services. These quarterly reports will be made available to the public by the State Department of Education 30 days after being provided to the district.

14. WHAT IS THE DIFFERENCE BETWEEN THE CORRECTIVE ACTION PLAN AND THE COMMISSIONER'S ADMINISTRATIVE ORDER?

The Corrective Action Plan, based on the directives contained in the Level III report, is developed by the district staff. The State Department of Education will determine what must be done to correct the

district's deficiencies and when these deficiencies must be corrected. In the development of the Corrective Action Plan, the district is determining specifically how it will correct its deficiencies and who will be responsible for carrying out the activities of the Corrective Action Plan.

A Commissioner's administrative order is prepared after a comprehensive compliance investigation has been conducted. The Commissioner's administrative order is imposed after a plenary hearing during which the district shall show cause why it should not implement the provisions of the administrative order. In this situation, the State Department of Education is providing the district with a final opportunity to address and resolve its problems under the supervision of the state while maintaining local responsibility for the overall operation of the district.

15. HOW MUCH TIME WILL A DISTRICT HAVE TO COMPLY WITH THE COMMISSIONER'S ADMINISTRATIVE ORDER?

The administrative order will include specific directives and timelines that will determine when the district must correct its deficiencies. These timelines will be established by the Commissioner as a result of information obtained during the plenary hearing conducted to determine whether an administrative order should be issued. Under no circumstances will the district be given more than one year to complete the directives contained in the administrative order.

16. HOW MANY DISTRICTS HAVE FAILED TO ACHIEVE CERTIFICATION DURING LEVEL I MONITORING AND ARE CURRENTLY IN THE LEVEL II MONITORING PROCESS? ARE ALL OF THESE DISTRICTS CANDIDATES FOR THE LEVEL III PROCESS?

At the present time, 52 districts are in the Level II monitoring process. Technically all of these districts are candidates for the Level III monitoring process if they fail to achieve certification after Level II monitoring; however, 47 of 49 districts that were previously designated Level II districts successfully completed the Level II monitoring process and have achieved certification.

17. HOW MANY DISTRICTS ARE EXPECTED TO GO THROUGH THE LEVEL III PROCESS? HOW MANY OF THESE DISTRICTS MAY BE DESIGNATED AS STATE-OPERATED SCHOOL DISTRICTS?

It is anticipated that approximately 10 to 20 districts will be required to implement the Level III monitoring process. It would be pure speculation to estimate the number of districts that ultimately will become candidates to be designated as state-operated school districts.

STATE-OPERATED SCHOOL DISTRICT

QUESTIONS AND ANSWERS

1. WHAT IS A STATE-OPERATED SCHOOL DISTRICT?

A state-operated school district is one in which the state has taken over total control of its operations. The local board of education will cease to function as the governing body and the state board, upon the recommendation of the Commissioner, will appoint a state district superintendent. The position of local superintendent and other selected central office positions i.e. personnel, curriculum business etc. will be abolished and personnel in those positions terminated.

2. WHY HAS THE STATE DEVELOPED A PLAN TO TAKE OVER DEFICIENT SCHOOL DISTRICTS?

A plan to take over school districts has been developed for those few extraordinary cases where districts have repeatedly failed to correct long-standing deficiencies cited during the Level I, Level II and Level III monitoring processes. Should a district fail to demonstrate reasonable progress in correcting deficient instructional and/or management areas to such a degree that it is determined that a thorough and efficient system of education is not being provided, the district shall forfeit continued local control of its operations and the State Department of Education shall assume control. In meeting its constitutional responsibilities, the State of New Jersey must ultimately ensure that all students are provided with a thorough and efficient system of education.

3. UNDER WHAT CONDITIONS WILL THE STATE TAKE OVER A SCHOOL DISTRICT?

The State Board of Education will establish a state-operated school district only in those extreme cases where a district has failed to achieve certification during the Level III monitoring process, and does not meet the provisions of the administrative order imposed on the district by the Commissioner of Education.

4. WHAT HAS THE STATE DEPARTMENT OF EDUCATION DONE TO ASSIST LOCAL SCHOOL DISTRICTS IN CORRECTING THEIR DEFICIENCIES AND MEETING STATE CERTIFICATION STANDARDS?

The New Jersey State Department of Education offers one of the most comprehensive local assistance plans in the nation. If requested by local districts, the county superintendents are prepared to identify the appropriate state resources during the district's development of the Level II self-improvement plan. Among the wide range of resources offered are publications, workshops, seminars, and pilot programs that address a variety of issues.

For a listing of these resources, see the following State Department of Education publications:

- New Jersey Design For Educational Excellence (1985)
- Helping Educators Prepare Their Students for the High School Proficiency Test
- New Jersey State Department of Education Publications Catalog

In addition to the comprehensive assistance plan, if the district fails to achieve certification in Level II, the Level III monitoring process is initiated and the state brings in a team of specialists who provide expertise that may not be available at the local level. This team will provide the school district with a specific set of findings and directives that describe the deficient conditions existing within the district and a prescription for correcting them.

5. WHAT FORM OF DUE PROCESS WILL PROTECT DISTRICTS FROM ARBITRARY TAKE-OVER ACTIONS BY THE STATE?

Before a district is formally established as a state-operated school district, it will have gone through three systematic and distinct monitoring processes. In each monitoring step, the district is apprised of its deficiencies and provided with an opportunity to address these deficiencies at the local level. As a final step before the state takes over its operations, a district will have an opportunity to correct its deficiencies locally, under the provisions of an administrative order imposed by the Commissioner after a show cause process.

During the Level III monitoring process, the district has the right, under the appropriate regulations or by law, to appeal the judgments of the Assistant Commissioner for County and Regional Services or the Commissioner of Education. The district also has the right, pursuant to law, to appeal the action of the State Board of Education to establish a state-operated school district.

6. WHAT DOCUMENTATION WILL THE DISTRICT NEED TO PROVIDE TO THE COMMISSIONER AND THE STATE BOARD TO AVOID BECOMING A STATE-OPERATED SCHOOL DISTRICT?

There are two ways in which a district could respond to the Commissioner and state board:

- The district would need to provide documentation during the plenary hearing that refutes the validity of the findings of the comprehensive compliance investigation;

or

- The district would have to demonstrate that the directives contained in the Commissioner's administrative order had been successfully implemented.

7. AT WHAT POINT DOES THE LOCAL BOARD OF EDUCATION CEASE TO FUNCTION IN A STATE-OPERATED SCHOOL DISTRICT?

The local board of education ceases to be the governing body effective immediately on the date of the state board administrative order.

8. HOW MUCH WILL THIS INTERVENTION COST THE LOCAL TAXPAYER?

It is impossible to estimate the financial impact of the state's intervention. While the costs associated with the intervention -- including salaries and auditing fees -- will be borne entirely by the district, it is quite likely that long-term savings may also be realized if poor fiscal management practices are identified and corrected by state officials. The specific costs and resultant savings will vary widely from district to district.

9. WHAT WILL BE THE FUNCTION OF THE LOCAL ADVISORY COMMITTEE? WILL IT ACT AS AN INFORMAL BOARD OF EDUCATION?

The function of the local advisory committee, appointed by the Commissioner, is to provide the state district superintendent with advice. This committee will meet monthly and will offer input from the community to the state officials who are managing the school district. The local advisory committee will have no formal authority and will not function as an informal board of education.

10. HOW WILL THE MEMBERS OF THE LOCAL ADVISORY COMMITTEE BE SELECTED?

The county superintendent will recommend to the Assistant Commissioner for County & Regional Services people who represent various sections of the community. The county superintendent will accept names of potential committee members from municipal leaders, civic organizations, PTAs and other groups and individuals from within the community. The Commissioner, with the advice of the Assistant Commissioner, will select no more than 15 people.

11. HOW LONG WILL THE DISTRICT REMAIN A STATE-OPERATED SCHOOL DISTRICT AND HOW IS IT DETERMINED WHEN A DISTRICT SHOULD BE RETURNED TO LOCAL CONTROL?

The duration of the district's state-operated school district status shall be for a minimum period of five years. Annually, the Commissioner will issue a public report to the community reviewing the current status of the district. At the conclusion of five years and annually thereafter, the Commissioner of Education shall review the status of the school district and determine if the district has met state certification standards. When the Commissioner determines that conditions within the district warrant a reinstatement of local control, he will recommend to the State Board of Education that a district board of education be appointed and that local control be re-established in the school district.

12. **WHY DOES THE STATE PLAN TO RETAIN CONTROL OF STATE-OPERATED SCHOOL DISTRICTS FOR FIVE YEARS? COULDN'T THE PROBLEMS BE CORRECTED IN LESS TIME?**

Before being designated a state-operated school district, the school district will be given numerous opportunities, over several years, to correct its own problems. If the district fails to do so, even with the assistance of the state, it will be clear that its deficiencies are so serious, so complex, and so difficult to resolve that the five-year period will be the minimum time needed to make the necessary improvements.

13. **WHEN WILL THE STATE DEPARTMENT OF EDUCATION RELINQUISH CONTROL OF THE OPERATIONS OF THE LOCAL SCHOOL DISTRICT?**

The State Department of Education will relinquish control of the school district immediately upon the appointment of a local board of education by the State Board of Education.

14. **WHAT HAPPENS TO THE STATE DISTRICT SUPERINTENDENT AND HIS/HER STAFF WHEN THE DISTRICT IS RETURNED TO LOCAL CONTROL?**

When local control is reestablished in a state-operated school district, the state district superintendent and other administrative staff, as determined by the Commissioner, shall remain in their positions for a period of one year. The state-appointed staff may continue in their positions at the end of the one-year period at the discretion of the local board of education.

15. **COULD THE STATE TAKE OVER ONE SCHOOL WITHIN THE DISTRICT?**

No. State-operated school district status refers to the district governance and not individual schools.

16. **WHY DOES THE ESTABLISHMENT OF A STATE-OPERATED SCHOOL DISTRICT REQUIRE THE REMOVAL OF THE LOCAL BOARD OF EDUCATION?**

In a state-operated school district, a systematic monitoring process conducted by the State Department of Education will have determined that serious deficiencies continue to exist in the district's educational, management, governance or fiscal programs. In effect, a state-operated school district may be said to be "educationally bankrupt" and placed in "receivership" by the state. Since the local board of education, which is ultimately responsible for the effective operation of the school district, has not met its responsibilities, the board of education shall forfeit its right to govern the school district's operations and the State Department of Education shall assume control.

17. **WHAT ARE THE RESPONSIBILITIES OF THE INTERNAL AUDITING UNIT?**

The Internal Audit Unit will randomly, but continuously monitor all aspects of the district's fiscal operations. The unit's monitoring will include, but not be limited to:

- 1) Budget Preparations, Adherence and Reporting
- 2) Cash Receipts and Accounts Receivable Records
- 3) Cash Disbursements and Paid Vouchers
- 4) Payroll
- 5) Board Minutes
- 6) Monthly Financial Reports
- 7) Bank Reconciliations - All Accounts
- 8) The Purchasing Procedure

It will be the responsibility of the unit to perform whatever tests are deemed necessary to assure itself and all concerned that each phase of each operation is functioning in accordance with state-prescribed procedures. Additionally, as problems are discovered, remedial action to correct the inadequacy shall be proposed to the state district superintendent.

In addition to monitoring the district's fiscal operations, the unit will instruct district personnel in the proper methods of accomplishing each existing or new task assigned.

18. **SCHOOL DISTRICTS THAT DO NOT ACHIEVE CERTIFICATION BUT DO DEMONSTRATE REASONABLE PROGRESS IN CORRECTING DEFICIENCIES AFTER COMPLETING CORRECTIVE ACTION PLAN ACTIVITIES MAY HAVE THEIR CORRECTIVE ACTION PLAN TIMELINES EXTENDED SO THAT THEY MAY CONTINUE TO WORK TOWARD MEETING STATE CERTIFICATION STANDARDS. HOWEVER, DISTRICTS THAT ARE ESTABLISHED AS STATE-OPERATED SCHOOL DISTRICTS MUST EITHER MEET STATE CERTIFICATION STANDARDS OR CONTINUE AS STATE-OPERATED SCHOOL DISTRICTS. ISN'T THIS SET OF CIRCUMSTANCES INCONSISTENT AND UNFAIR?**

The basis of the Department of Education's monitoring process is to provide local school districts with an opportunity to address and resolve their problems at the local level without the intervention of the Department of Education. Those school districts that demonstrate reasonable progress in addressing their deficiencies, through the implementation of a Corrective Action Plan, will continue to be given an opportunity to resolve their problems and attain state certification standards because they have demonstrated a willingness and ability to resolve their own problems.

A state-operated school district will be established by the State Board of Education only when a school district has repeatedly failed to address and correct deficiencies in its educational programs, management, governance or fiscal areas. It is neither unfair nor inconsistent that once the state takes over in these extreme cases, the state will continue to operate the district until it is determined that a thorough and efficient system of education is being provided and all state certification standards are being met.

19. **THE PROPOSAL TO ESTABLISH A STATE-OPERATED SCHOOL DISTRICT INCLUDES A PROVISION FOR THE ASSESSMENT OF BUILDING PRINCIPALS. WHAT IS THIS PROCESS ALL ABOUT?**

Because the building principals are key to successful education in their individual schools, the State Department of Education will develop a comprehensive evaluation process for all principals in a

state-operated school district. An assessment unit, comprised of certified school administrators, will observe and evaluate the district's principals on a regular basis, and provide assessment reports to both the principal and the state district superintendent. Based on these evaluations, the state district superintendent will decide, within one year after the state assumes control of the district, whether to retain or replace each building principal.

20. **IT IS UNDERSTANDABLE THAT THE STATE DEPARTMENT OF EDUCATION WOULD SEEK TO REMOVE THE LOCAL BOARD OF EDUCATION AND CENTRAL ADMINISTRATIVE STAFF IN ORDER TO EFFECTIVELY CONTROL THE OPERATION OF THE SCHOOL DISTRICT, BUT WHY IS IT NECESSARY TO SUBJECT THE PRINCIPALS TO A RIGOROUS PROCESS OF ASSESSMENT BEFORE DETERMINING THEIR FUTURE EMPLOYMENT STATUS?**

Because the role of the building principals is so vital to the effectiveness of the education program, it is necessary to ensure that they are performing their responsibilities in a capable manner. The assessment process will be rigorous but fair and will provide for the continuation of building principals who demonstrate effective performance.

PROPOSED LEGISLATION FOR THE ESTABLISHMENT AND
GOVERNANCE OF STATE-OPERATED SCHOOL DISTRICTS

18A:7A-14. Failure of school or school district to show progress; corrective action [remedial] plan; insufficiency; corrective actions; hearing on order to show cause

The commissioner shall review the results of the evaluations conducted and reports submitted pursuant to Sections 10 and 11 of this act. If the commissioner shall find that [a school or] a school district has failed to show sufficient progress toward the goals, guidelines, objectives and standards, including the State goals and any local interim goals concerning pupil proficiency in basic communications and computational skills, established in and pursuant to this act, he or she shall advise the local board of education of such determination, and shall direct that [a remedial] an improvement plan be prepared and submitted to him or her for approval. Such improvement plan shall be based upon the school district's own internal review and assessment of those remedial activities necessary to correct those deficiencies noted in the evaluations and reports. If the commissioner approves the plan, he or she shall assure its implementation in a timely and effective manner. If the commissioner finds that the [remedial] improvement plan [prepared by the local board of education] based upon the internal review process is insufficient[,] or unsuccessful in correcting the deficiencies noted in the evaluation process, he or she shall designate the county superintendent to appoint a review team who shall, in conjunction with the Department of Education, examine the district's areas of deficiencies and prepare directives to be utilized by the district in the preparation of a corrective action plan to achieve certification. The

entire cost of those activities associated with the review committee shall be assessed by the commissioner against the district and shall be deducted from the district's apportionment of state aid. If the commissioner finds, based upon the findings and directives of the review team and the Department of Education, that conditions within the district may preclude the successful implementation of the corrective action plan or that the district has failed to make reasonable progress in the implementation of the corrective action plan to achieve certification, he or she shall direct a comprehensive compliance investigation be conducted by the Department of Education which investigation shall result in a recommended administrative order. When the recommended administrative order is approved by the commissioner, the commissioner [he/she] shall order the local board to show cause why the [corrective actions provided in] administrative order, subject to the provisions of section 15 of this act and N.J.S. 18A:8-43 should not be [utilized] implemented. The plenary hearing upon said order to show cause shall be conducted in the manner prescribed by subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes. In this proceeding the district board shall have the burden of showing by clear and convincing evidence that the corrective action prescribed in the recommended administrative order is arbitrary, unreasonable or capricious.

18A:7A-15. Corrective actions; administrative order specifying [remedial] corrective action to local board and creation of state operated school district

If, after a plenary hearing, the commissioner determines that it is necessary to take corrective action, as provided in the recommended administrative order, he or she shall [have the power to] order necessary budgetary changes within the school district[, to order in-service training programs for teachers and other school personnel,] or [both] other measures as he or she deems appropriate with the exception of the creation of a state operated school district. If [he] the commissioner determines that [such] the district has failed to correct the deficiencies outlined in the administrative order, he or she shall [have the power to] recommend to the State board that it [take appropriate action. The State board, on determining that the school district is not providing a thorough and efficient education, notwithstanding any other provision of law to the contrary, shall have the power to issue an administrative order specifying a remedial plan to the local board of education, which plan may include budgetary changes or other measures the State board determines to be appropriate.] issue an administrative order creating a state-operated school district. Notwithstanding any other provision of law to the contrary and upon its determining that the school district is not providing a thorough and efficient system of education, the State board may direct the removal of the district board of education and the creation of a state-operated school district whose functions, funding and authority are defined in this act. Nothing herein shall limit the right of any party to appeal the commissioner's administrative order to the State board or the State board's order to the Superior Court.

18A:7A-15.1. (New)

Pursuant to 18A:7A-15, the State board shall have full authority to: (a) remove the district board of education, (b) create a state-operated school district, and (c) appoint, upon recommendation of the commissioner, a state district superintendent of schools to direct all operations of the district, including the implementation of the administrative order. The state district superintendent of schools shall have all authority and powers previously vested in the district board of education.

STATE-OPERATED SCHOOL DISTRICT (New)

18A:8-43. Creation of state-operated school district

Whenever the commissioner shall determine after the issuance of an administrative order that a local school district has failed to assure a thorough and efficient system of education, the State board may issue its administrative order as set forth in Chapter 7A, section 15 of these laws which shall remove the district board of education and create a state-operated school district. The state-operated school district shall become effective immediately upon issuance of the administrative order by the State Board of Education.

18A:8-44. Structure of state-operated school district

- a. The schools of a state-operated school district shall be conducted by and under the supervision of a state district superintendent of schools appointed by the State board upon recommendation of the commissioner.
- b. Notwithstanding any other provision of law or contract, the positions of the central administrative and supervisory staff, instructional and non-instructional, of the district shall be abolished upon creation of the state-operated school district. The affected employees or officers shall be given 60 days notice of termination or sixty days pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Any employee whose position is abolished by operation of this law shall be entitled to assert a claim to any position or to

placement upon a preferred eligibility list for any position to which he/she may be entitled by virtue of seniority within the district. No employee whose position is abolished by operation of this statute shall retain any right to tenure or seniority in the positions abolished herein.

- c. Upon appointment, the state district superintendent shall establish an assessment unit which shall conduct on site evaluations of each building principal and render quarterly evaluation reports to the state district superintendent. Notwithstanding any other provision of law or contract, the state district superintendent, after completion of an assessment cycle of not more than 12 months, may dismiss any building principal for unsatisfactory performance or other good cause. Prior to the dismissal, the state district superintendent shall give the principal written notice of the dismissal. Prior to the effective date of the dismissal, the principal shall have the opportunity to meet with the state district superintendent in order to be heard on any reason why the dismissal should not occur. The state district superintendent shall provide the principal with written notice of finalization of the dismissal or recall of the dismissal notice. The dismissal shall take effect immediately upon finalization and shall terminate all employment rights including, but not limited to, salary and benefits with the exception of pension rights. Any building principal dismissed pursuant to the provisions of this statute may appeal to the commissioner and seek reinstatement by requesting a hearing. Said request must be made within 10 days of the effective date of the dismissal. In the hearing before the commissioner, the appellant shall bear the burden of proving

that the dismissal of the appellant by the state district superintendent was arbitrary, capricious or unreasonable in order to be restored to the position of building principal. Any building principal dismissed pursuant to the provisions of this statute shall be entitled to assert a claim to any other position or to placement upon a preferred eligibility list for any other position to which he or she may be entitled by virtue of seniority within the district. No person dismissed from the position of principal pursuant to the provisions of this statute shall retain any right to tenure and seniority in the position of principal. Building principals who are not dismissed pursuant to the procedures provided herein after completion of the assessment cycle shall not be dismissed except pursuant to the provisions of NJC 18A:6-10 et seq.

- d. The state district superintendent shall be appointed for an original term not to exceed five years. Notwithstanding any other provision of law, no person so appointed shall acquire tenure nor shall the commissioner, with approval of the State board, be precluded from terminating his/her services pursuant to the terms of his/her individual contract of employment. For purpose of the New Jersey Tort Claims Act, the state district superintendent shall be considered a state officer.
- e. The salary of said state district superintendent shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The cost for said salary and for the salaries of all persons appointed pursuant to this law shall be an expense of the local school district.

- f. No person shall be appointed to any position pursuant to this statute unless he/she shall hold an appropriate certificate as prescribed by the State Board of Examiners.
- g. The state district superintendent shall perform all the duties and possess all the powers heretofore and hereafter assigned to central administrative and supervisory staff, instructional and non-instructional, which shall include but not be limited to the superintendent of schools, secretary of the board of education, school business administrator, school business manager, and assistants and clerks thereto, in Title 18A of the New Jersey Statutes.
- h. All officers, employees and consultants, professional and nonprofessional, certified and non-certified, shall be employed or retained, transferred and removed as provided below:
- (1) The state district superintendent may appoint, transfer and remove clerks, pursuant to the provisions of Title 11 of the Revised Statutes, and, pursuant to Article 1 of Chapter 17 of Title 18A of the New Jersey Statutes.
 - (2) The state district superintendent, subject to the approval of the commissioner, shall appoint and set the salaries of such state assistant superintendents as he or she shall deem necessary and assign to them their duties and responsibilities. No state assistant superintendent shall acquire tenure, notwithstanding any other provision of law.

- (3) The state district superintendent of schools shall, subject to the approval of the commissioner or his designee make all personnel determinations relative to employment, transfer and removal of all officers and employees, professional and nonprofessional, except that the services of the district auditor(s) and attorney(s) shall be immediately terminated by operation of this act.
- i. The state district superintendent may delegate to subordinate officers or employees in the district any of his or her powers and duties as he or she may deem desirable to be exercised under his or her supervision and direction.
- j. Except as otherwise provided in this act, the state district superintendent shall have the power to perform all acts and do all things consistent with law necessary for the proper conduct, maintenance and supervision of the schools in the district.
- k. The state district superintendent may make, amend and repeal district rules, policies and guidelines, not inconsistent with law for the proper conduct, maintenance and supervision of the schools in the district.
- l. Except as otherwise provided in this act any person serving under tenure or permanent civil service status may continue to serve in the district pursuant to the provisions of N.J.S. 18A:8-44, however, they shall perform only such duties as prescribed or delegated by the state district superintendent and for which they may be appropriately certified.

18A:9-1. Division of school districts into type I and type II districts
(Revised)

School districts shall be classified as type I and type II school districts, [as provided in this chapter.] except that the State board may, by administrative order pursuant to its authority under Chapter 7A, section 15 of these laws, create a state-operated school district.

18A:9-3.1. (New)

- a. State-operated school districts shall be created only as provided pursuant to N.J.S. 18A:7A-15.
- b. State-operated school districts shall be conducted by and under the supervision of a state district superintendent appointed by the State Board of Education upon recommendation of the commissioner.
- c. The commissioner shall also appoint an advisory committee of no more than 15 persons from among the residents of the district who shall meet with the state district superintendent monthly.
- d. The state district superintendent shall annually provide to the commissioner an assessment of the progress of the district toward meeting the provisions of the commissioner's administrative order. The commissioner shall formally report to the State board on the district's progress.

- e. Based upon the annual assessments of progress and the district having received state certification, but not sooner than five years, the commissioner may recommend to the State board that a district board of education be appointed, and that local control be re-established. Said board shall, for an interim period of three years, be composed of residents of the district appointed by the State board upon recommendation of the commissioner. The terms of office of such board members shall be so ordered that three members shall be appointed for three years, three members shall be appointed for four years and three members shall be appointed for five years.
- f. Upon the appointment of the aforesaid board of education, the state district superintendent and those members of his/her staff appointed by operation of these laws relating to state-operated school districts shall continue to serve for a one year transition period upon conclusion of which their term of service shall expire without prejudice to the right of the district board of education to reappoint any or all such persons to similar positions within the district.
- g. Not less than two years after the appointment of the interim board of education, the board shall conduct a special election for purposes of placing the question of classification status before the voters of the district.
- h. If the voters of the district shall so elect to become a type I district, it shall be governed by the provisions of Title 18A, Chapter 9 relating to type I districts after January 31 next ensuing, unless the district be established in a city of the first class, in

which case it shall be governed after June 30 next ensuing. The members of the district board of education at the time of said election shall continue in office until expiration of their respective terms and the qualification in office of their successors.

1. If the voters of the district shall so elect that the district shall become a type II district, it shall be governed by the provisions of Title 18A, Chapter 9 relating to type II districts and the members of the board of education appointed by the commissioner shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

18A:10-1. Constitution of boards of education; conduct of schools (Revised)

The schools of each school district shall be conducted, by and under the supervision of a board of education, which shall be a body corporate and which shall be constituted and governed, as provided by this title, for a type I, type II, state operated or regional school district, as the case may be[.], but the State board pursuant to an administrative order issued by authority of N.J.S. 18A:7A-15 may create a state-operated school district which shall be conducted by a state district superintendent as herein provided in these laws.

18A:10-1.1. (New)

Notwithstanding the absence of a board of education, a state-operated school district shall remain a corporate entity.

18A:11-1.1. (New)

Except as otherwise provided in these laws, the state district superintendent in a state-operated school district shall have the power to:

- a. Enforce the rules of the State board;
- b. Perform all acts and do all things, consistent with law and the rules of the State board, necessary for the lawful and proper conduct, equipment and maintenance of the public schools of the district.

18A:11-2.1. (New)

- a. The state district superintendent of a state-operated school district may:
 - (1) Sue in the district's corporate name and likewise submit to arbitration and determination disputes and controversies in the manner provided by law;

- (2) Cause a report of the condition of the public schools and the public school property under his or her control and an itemized account of the condition of the finances of the district to be printed and published as soon as practicable after the close of each school year;
- (3) Cause an exact census to be taken annually of all children residing in the district between the ages of five and 18 years, including such other information as he or she may deem necessary or proper and appoint, for the purpose of taking said census, as many suitable persons as may be necessary to act as enumerators and fix their compensation, which compensation shall be paid as a current expense.
- b. A state-operated school district may be sued under its corporate name. State-operated school districts may join with local boards of education for the purpose of affording the districts those benefits which may accrue pursuant to N.J.S. 18A:18B-1 et seq.
- c. State-operated school districts shall be subject to all provisions of Chapter 19, Expenditure of Funds; Audit and Payment of Claims except that all warrants for claims or expenditures approvable by a district board of education or any action required of a district board of education pursuant to said Chapter 19 shall be authorized by the state district superintendent.

- d. Authority for the implementation of any provision of Chapter 20 of this title relative to the acquisition and disposition of property which requires action by a district board of education shall, in a state-operated school district, be exercised by the state district superintendent.
- e. The authority vested in boards of education by Chapter 21, Capital Projects of this title shall in a state-operated school district be vested in the state district superintendent.
- f. State-operated school districts shall be subject to all requirements set forth in Chapter 18A, Public Schools Contracts Law except that such determination as may be required of a district board of education by the provisions of said law shall be rendered by the state district superintendent.
- g. There shall be established within each state-operated school district an internal audit team which shall monitor the business functions of the district and report its findings to the state district superintendent and the commissioner. The cost of providing the aforesaid internal audit function shall be borne by the district.

ARTICLE 5. BUDGETS STATE OPERATED SCHOOL DISTRICTS (NEW)

18A:22-49.

(TITLE)

The state district superintendent of a state-operated school district shall develop a budget on or before the first Tuesday in March. Such budget shall conform in all respects with the requirements of this Chapter.

18A:22-50.

(TITLE)

Upon the preparation of its budget, the state district superintendent shall fix a date, place and time for the holding of a public hearing upon said budget and the amounts of money necessary to be appropriated for the use of the public schools for the ensuing school year, and the various items and purposes for which the same are to be appropriated, which hearing shall be held between the first Tuesday in March and March 18. Notice of such hearing, contents of such notice and the format and purpose of the hearing shall be as provided in 18A:22-11, 18A:22-12 and 18A:22-13.

18A:22-51.

(TITLE)

After the public hearing provided for by C.18A:22-50 but not later than March 18, the state district superintendent shall fix and determine the amount of money necessary to be appropriated for the ensuing school year and he or she shall certify the amounts to be raised by special district tax for school purposes as well as the sum necessary for interest and debt redemption, if any, to the county board of taxation and the amount or amounts so certified shall be included in the taxes assessed, levied and

collected in the municipality or municipalities comprising the district.
Within 15 days after the certification by the state district superintendent,
the governing body of the municipality or municipalities comprising the
district shall notify the state district superintendent of its intent to
appeal to the commissioner the amount determined to be necessary to be
appropriated for each item appearing in the proposed budget.

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